GOVERNMENTAL REGULATION OF SPECULATION

By Carl Parker,
Columbia University, New York.

Public Opinion and Speculation

There are few important economic questions about which there is more confusion of ideas than there is concerning speculation. The attitude of the general public, as expressed through the press, and in the resolutions and laws of the legislatures and of congress, and the interpretation of these laws by the courts, shows a widespread lack of information concerning the buying and selling of produce and securities upon organized exchanges. This confusion seems to consist largely in two misunderstandings, viz., first, that speculation in itself is the cause of the rise or fall in prices, and, second, that speculation is identical with gambling, *i. e.*, that it serves no useful purpose, but exists only as an outlet for certain trouble-making tendencies in human nature.

It is quite natural that there should be this lack of familiarity on the part of the public with our modern mechanism for distributing commodities. This mechanism is the product of one of the most rapid series of changes in industrial organization that the world has ever known. When we recall that the first railroad was opened for traffic in England in 1825, that in 1850 there were only 9,021 miles of railroads in the United States, that the first steamship crossed the Atlantic only in 1838, that the commercial telegraph was invented in 1837, and the first successful Atlantic cable laid in 1866; when we recall these facts, we realize only in part the tremendous change which has come over the economic world within practically the last fifty years. While within this period the country's population has grown from 31,443,321 in 1860 to 91,972,267 in 1910, the production and consumption of goods have increased at a far more rapid pace, as is shown by the following comparison:

	1860	1910
Cotton	3,841,416 bales	10,650,961 bales
Wheat	173,104,924 bushels	695,413,000 bushels
Corn	838,792,780 bushels	3,121,381,000 bushels
Pig iron	821,223 long tons	27,000,000 tons*
Coal	13,044,680 long tons	407,000,000 tons*
Petroleum	21,000,000 gallons	5,388,000,000 gallons†
Gold	6,486,262 ounces	23,000,000 ounces
Copper	14,400,000 pounds‡	1,500,000,000 pounds‡
Crude steel	19,643 tons§	23,755,021 tons‖
Product of national manufactures	$1,885,861,676	$14,802,147,087
Product of farms	$1,958,030,927¶	$8,926,000,000

*Approximate. †1908. ‡Estimated.
§First Bessemer steel manufactured in the United States.
‖1909. ¶1870.

Vastly more important, however, for our purposes is the equally great change that has come about partly as a result of these other changes in the organization of business itself during this same period. The most striking features of this development are:

1. The growth of large-scale production with its accompanying by-product economies.

2. The enormous conversion, largely since 1880, of partnership and one-man businesses into corporations, with the corresponding increase of stocks and bonds.

3. The combination of concerns in the same or allied lines into huge holding corporations with hundreds of millions of capital.

4. The rise of great, organized public markets throughout the country for the buying and selling of stocks and produce.

These features of our industrial growth are well known, but their close relationship and interdependence are not always borne in mind. In the year 1863, for example, the highest price of a seat on the New York Stock Exchange was $4,500; in 1910 it was $91,000. From a small business in the national debt and railroad securities in 1860 the business of the exchange has risen to sales of 212,563,644 shares of stock and bonds to the value (at par) of $1,311,874,700 for the year 1909, which is a representative year. During this same year the par value of new stocks listed was

$1,154,990,370 and of bonds $1,009,518,600. A similar growth is characteristic of the grain and cotton exchanges. The Chicago Board of Trade was incorporated in 1859 and the cotton exchanges in the early seventies. To-day sales on the New York Cotton Exchange amount to about fifty million bales per year; while the sales of wheat on the Chicago Board of Trade each year exceed the nation's crop in this cereal by several times.

Until comparatively recent times little recognition was given to the claims of remuneration for risk-taking. Cunningham,[1] in his "English Industry and Commerce," says: "English merchants were not to forestall wine in Gascony, or buy it up before the vintage, and the time of the common passages; nor were they to charge high for the wine on the pretense that they ran risks. Cost of carriage was a charge that could be checked, and this might doubtless be allowed for when sale was made in London; but remuneration for risk was obviously regarded as a mere excuse for arbitrary demands on the part of the merchant, and these were not to be permitted at all."

To-day we recognize that risks must be taken if industry is to be carried on, and that all necessary risks must be eventually borne by the consumer in the higher price of the goods thus produced. The world is willing to pay for the necessary risks assumed in the growing and marketing of its crops, but it demands that this risk be made as small as possible. Yet how is the world to determine each year what a reasonable price for its wheat is—a price fair to the farmer who grows the grain and fair to the millions who consume it? The problem has been solved by the growth of the speculating class, men who make it their profession to study the conditions of the supply of and demand for wheat throughout the entire world, and buy and sell accordingly until the price approximates a point which gives the farmer a fair remuneration for his labor and judgment, thus insuring a continuance of the supply, and at the same time keeps down the price to the consumer as near as possible to that secured by the farmer. I say as near as possible because in no other field is competition more sharp and vigorous than on the organized markets where produce is bought and sold.

From the individual point of view, the speculator is one who

[1]Vol. I, p. 294, quoted from Emery, "Speculation in the United States.

seeks to forecast changes in value, and buys and sells accordingly in order to secure as a profit the difference between the two prices. From the point of view of the trade, the speculator is that member of it who assumes the risk of changes in value of the given product as it passes from producer to consumer. His services are in the nature of an insurance to the other member of the trade. As a member of the body politic, the speculator may be regarded as embodying the keenest foresight of the community. He is the commercial scout who first discovers and reports changes in values, and thus is indispensably instrumental in the direction of the world's industry into the most efficient channels.

There are two main lines along which agitation against organized speculation has proceeded. The one is economic. It is a protest, on the one hand, from producers or sellers that speculation lowers prices, and is directed mainly against "bear" activities; and, on the other hand, from consumers or buyers that speculation raises prices, and is directed mainly against the "bulls." The moral program, however, which we will consider first, cares not for bulls or bears, or for the specific effect of speculation upon prices. It often denies, in fact, that speculation has any effect upon prices, except, to use its own expression, "to demoralize" them. It identifies speculation with gambling, and condemns both alike. Its supporters see and read about the lives ruined by unfortunate speculation on the exchanges, the defalcations of trusted bankers and employees to make good losses incurred in the market, and the hundreds of tales of woe that rise always from such centers of trade; and, as is quite natural for unreflecting individuals, especially when given the cue by an unreflecting press, they come to the conclusion that the organized market, with its facilities for all to buy and sell, is more of an evil than a good, that the whole process is gambling, according to the most radical, and should be crushed out. In Germany, this idea of crushing out the evil was put into practice with results that will be described later.

In the growing and distributing of produce the community must take the risks of fluctuations in value. How shall this risk best be taken? Who is best fitted to measure and meet it? The farmer cannot take it. He, as an individual, raises but a ten thousandth part of the crop. The consumer or the baker who buys a fractional part of the flour manufactured cannot assume it

with any success. The price of wheat, for instance, which fluctuates is a world price. The big wholesaler formerly took much of the risk of changes in the value of wheat occurring between the moment it ripened in the field and the moment it went to the miller to be turned into flour, and he still takes a large part of it. But the final evolution of the problem of risk in this field of production is the development of a trained group of speculators who give their time, ability and capital to the determination of values. They have come to express, where there is a *bona fide* market, the best judgments of the world on the value of the commodities in which they deal. The bulls take care of the interest of the farmer. They watch every opportunity to push up the price. Every failure of the crop in a local district, every bad period of weather which seems likely to bring about or increase that failure is used by the bulls as a basis for paying or offering to pay a higher price for the crop in question. On the other hand, the bears represent the consumer who is on the watch to buy at the lowest possible price. They are the agents of the bread-eating public to see that every factor tending to lower the price has an adequate effect in lowering the price, as far and as soon as possible. For this service of acting as a medium through which the forces of supply and demand act with the least friction, the speculator receives his speculative profits. These may at times be large, but they are no larger than profits gained in any pursuit. Exceptional ability invariably commands exceptional returns.

Most people have yet to learn that they cannot speculate successfully because they are allowed, and are able, to buy and sell produce on a ten per cent margin. When we reflect that something over ninety per cent of all people who go into business for themselves fail, we should not be surprised that of the thousands of "outside lambs" who attempt to assume the risks of one of the most uncertain occupations in the business world, and one about which they know little or nothing, the great majority should fail, and fail in a very short time to an extent not even always limited to their capital. The real problem in this connection is not to destroy organized speculation and go back to the uneconomical methods of the past, but to give individuals who have a special aptitude for speculation the best training we can for that difficult occupation, and let them do the speculating just as certain specially trained

classes take care of our bodies, our souls, and our legal rights. But, as in these three latter cases, a well-informed and aggressive public is indispensable to the development of the greatest merit, so in speculation, public education on the subject is the best guarantee that the organized market will be put exclusively to the use for which it was established.

As to the objections to speculation that it raises prices, or lowers prices according to the point of view, it is only necessary to point out that speculation has always existed where uncertainty exists, that it is the effect of conditions and not the cause of them, that its object and reason for being is to foresee and anticipate price changes by buying and selling and not to create them. As by speculation, however, its critics usually mean the trading in "futures," I may quote from a report (1901) of the United States Industrial Commission on the "Distribution of Farm Products," in which this feature was specifically discussed.

On page 213 of this report, after several pages of tables and charts containing spot (cash) and future prices, the following summary is given: "Out of fifty-seven different futures compared with the spot (cash) prices realized in the New York cotton market from 1881-82 to 1899, in twenty-nine cases the futures proved to be higher than the spots realized three months hence, and in twenty-eight cases the futures were lower than the spots at maturity—that is, the speculative judgment anticipated the realized value of cotton a little too favorably in half the cases and not quite favorably enough in the other half.

"In the Liverpool market, out of fifty-seven cases (1881-82 to 1899) of comparison of future bids with spot prices realized at the expiration of the contract period, it appears that in thirty cases the future prices were lower than the spot prices realized at maturity of contract, and in twenty-seven cases the future prices were higher than the spot prices realized at maturity. In the New Orleans market, out of fifty-seven cases, in twenty-five of them the future price was lower than the spot price realized three months later, and in twenty-six cases the future price was higher than the spot price.

"These results would seem to support the conclusion that, in the long run, the speculative quotations for future delivery are neither uniformly above nor below the level of the proper cash

value of cotton as determined at the future date, but that they are tentative anticipations of such realizable value as the conditions of the supply and demand are most likely to determine at the time when the future contract matures." . . .

Again, on page 233, the report continues: "As we have attempted to show, it is a mistake to represent speculation in futures as an organized attempt to depress prices to the producers.

"First. Because every short seller must become a buyer before he carries out his contract.

"Second. Because, so far as spot prices are concerned, the short seller appears as a buyer and not a seller, and, therefore, against his own will is instrumental in raising prices.

"Third. Because, as far as 'future' prices are concerned, the 'bull' in speculative buying counteracts the effects of speculative selling by the 'bear.'

"Fourth. Because the 'bull' in his realizing operations when depressing prices are counteracted by the opposite effect of the 'covering' movements of the 'bear,' the two sides thus keeping the market price about where it would be kept in the long run if instead of 'bulls' and 'bears' there would be ordinary legitimate buyers and sellers.

"Fifth. Because, as has been shown, future sales are not made at a uniformly lower price than the corresponding spot price, but, on the contrary, are on the average a little above spot prices to meet the cost of storage, interest and other charges.

"Sixth. Because, as has been shown, neither the 'bulls' nor the 'bears' are uniformly on the winning side, but are about equally winners and losers, thus proving that one is about as important and influential a factor in the market as the other.

"Seventh. Because evidence, believed to be conclusive, has been presented showing that, under speculation, prices prevailing at the time when producers dispose of the greater part of their products are greater in comparison to the rest of the year than they were before the advent of speculation."

This last point refers to a comparative study of prices before and after speculation began, on both the wheat and cotton exchanges. The figures show that month to month fluctuations have steadily diminished in extent but increased in frequency from the earliest date, 1840; and, as pointed out above, the natural tendency

to falling prices, when the new crop comes on the market, has not only been counteracted by the development of speculation, but has been turned into an opposite movement, making the April and May price differ from the fall price only by the cost of storage, interest, etc., and sometimes even by not so much as these. The results of a study of the figures from the Berlin wheat market for forty years show substantially the same relation between futures and spots as in the case of Liverpool and the American exchanges.

The misconception of the function of "futures" is due to a lack of a broad grasp of the trade situation. We have, on the one hand, in the case of both cotton and grain, a multitude of unorganized producers, many, if not most, of whom must sell their crop which may be large or small (fluctuations run into the millions) as soon as produced. On the other hand are the millers or cotton manufacturers of all degrees of wealth and policy, who must have the raw material for their mills. How can these two parties, buyers and sellers being in all parts of the globe, be best brought together? How is the price of the grain or cotton to be best fixed for the world, if not by the representatives of the two interests meeting at some common place with good transportation and telegraphic facilities, and bargaining for their respective clients.

Market conditions affecting the value of the two crops are changing every day. What cause for wonder is it that the same bale of cotton or the same bushel of wheat should be sold over and over again in a given season, or that a special class of traders should have gradually developed giving all their time to the determination of these conditions and their effect on the prices of the two articles? When farmers must be paid at once and millers and manufacturers buy only from month to month, some arrangement must be made to accommodate the two. When millers and manufacturers contract far ahead for the delivery of flour or cloth, they must know something about the price which they must pay for their raw material, which perhaps they will not need nor be able to purchase for cash for several months. When the farmer plants cotton or wheat he ought to know something about the price he is to receive for his crop. When his market is the haphazard buying of the manufacturers and millers, what guarantee has he either of its steadiness or a fair price? This was the condition before the war when prices notoriously fluctuated and the big dealer had the

local farmer at a greater disadvantage than usual, with no central market publishing daily reports of the world prices. Now, the organized market stands ready at any moment to take over the farmer's crop and pay him for it the cash price. Whether he chooses to throw his entire crop on the market as soon as produced or to store and insure it himself, the price is maintained, and is ready for him every day of the year.

The arrangement by which all these results are obtained is the "future," that is, the right to contract for months ahead on a small cash payment to deliver or pay for so many bales of cotton or bushels of wheat. The "future" contract in every department of business has made possible the disappearance of the old hand-to-mouth economy and enabled business men to live like rational beings with their work well planned many months or years in advance. Organized speculation not only transfers the burden of risk from one pair of shoulders to another better fitted to take it, but it cuts down the risk of over- or under-production for the community, of any one commodity. Too often the occasional wild flurries, the sensational corners, the streaks of good or bad fortune of some individual are heralded as indications of the nature of the exchange, while its steady everyday services to commerce and industry are passed by unnoticed.

Let me call attention to some of the main items from a recognized authority that can be placed to the credit of speculation. From the final report of the Industrial Commission, 1902, page 186, "The three great functions which speculation performs in a free system of trading are:

"First. To localize the risks of distribution among a special class of experts presumably well informed as to the facts of supply, demand, credit, exchange and the cost of distribution.

"Second. To relieve producers and consumers alike of the expense and risk of being responsible for a year's production, thus freeing the cash income of both of these economic interests for other uses than those of protecting and providing a long-term supply of utilities.

"Third. To reduce the profits of trade by ready and active competition among the various speculative interests toward a minimum of cash per unit of the commodity handled, by conducting distributive operations on a large scale.

"Throughout the East and West it appears to be the general practice of millers on a large scale, who make contracts for delivering flour in the future, to purchase in the market for 'futures' a corresponding quantity of wheat against the contract for the delivery of flour which they have assumed. This system, as stated by entirely trustworthy representatives of the trade, has been found to be absolutely necessary in order to prevent the miller from assuming the extraordinary risks of changes in the market value of wheat. Only the more speculative and daring millers would undertake to fulfil future contracts without exercising this precaution of purchasing wheat 'futures.' In considering the question of whether buying and selling of 'futures' is consistent with the welfare of the producer, this aspect of the practice must be regarded as buying and selling insurance against loss.

"The economic position of warehousemen in handling agricultural products under the present system is somewhat similar to that of the miller. The warehouseman with a million of bushels of grain in storage is obliged in some way to secure himself against loss from a fall in cash prices in the future, by selling 'futures' at a price which will cover his outlay. This absolutely eliminates that million bushels of grain from the class of risks which the business has to run."

Speculation and the Law

In England, as in this country, there have been relatively few attempts to regulate or restrict organized speculation as carried on to-day. In France the Bourse of Paris is a semi-public institution, and the consent of the Minister of Finance must be obtained to the appointment of new brokers and to certain other actions; but, in the main, French exchanges, as regards their internal arrangements, are left very largely to themselves.

Until 1896 there was almost a complete lack of statutory regulation of exchanges in Germany. In that year, however, legislation was enacted of so radical and repressive a nature that it may be well to call attention to its provisions and their effects before reviewing the American federal and state activity in this direction.

The impetus to this legislation[2] came from the failure of certain large banks of Berlin in 1891 in connection with the misuse of their deposits and with evidence exposing an undue amount of speculation on the part of the public. In 1892 a commission was appointed by the imperial government, with Dr. Koch, president of the Reichsbank directorate, as chairman, with a majority of the membership being lawyers and a representation of landed proprietors, merchants and economists, to consider the whole question of the Bourse.

Without going into the details of its investigations and report, which latter was made November 11, 1893, recommending certain statutory and administrative changes, it is fair to say that its work was well and impartially done, and its attitude and recommendations both judicious and prudent. The imperial government, however, especially the Reichstag, being influenced by the agrarians, or rural landholding party, proceeded to make regulations much more stringent than those recommended by the commission.

The "exchange act," as it was called, became law June 22, 1896, and went into effect January 1, 1897. It contains provisions under five main headings: (1) General organization; (2) quotations of prices and duties of brokers; (3) the listing of securities; (4) transactions for future delivery; and (5) dealing on commission. It is with the fourth heading that we are chiefly concerned in this article, viz., that prohibiting all "exchange dealings for future delivery" in grain and flour, and also all "exchange delivery for the account" (to be settled on "account" day a month hence) in the shares of mining and industrial companies. The next important provision was the establishment of an "Exchange Register," in which was to be entered the name of every person engaging in future transactions. Contracts made by two persons entered in the register were declared binding and exempt from the defense of wages. Where either party was an unregistered person, the contract was void, and either party might evade payment if his operations were ill-judged by putting forward the defense of wager.

As pointed out by Emery, there were three real and supposed evils which these provisions sought to prevent, viz., (1) the manipu-

[2]The following account has been taken largely from Emery in "The Political Science Quarterly," 1898, and "Yale Review," 1908-09, and Ernst Loeb in "Quarterly Journal of Economics," 1897.

lation of prices by short sellers, cornerers and others, especially against the interests of the producers, (2) the fraudulent or "tricky" manipulation of prices of stocks by "insiders," (3) the demoralizing and disastrous participation of the outside public in speculative transactions.

The last provision was expected to keep members of the public out of the market, in continental countries stocks and produce are dealt in on the same exchange, because, it was thought, they would not dare to announce themselves publicly as speculators by registering; and not being registered, and thus able to make a void "future" contract, would not be trusted as customers by the bankers and brokers who engaged in the selling of stocks.

The two former provisions were intended to prevent "future" trading in grain, which, according to the agrarians, lowered wheat prices, by overfilling the market with "wind" wheat, and to remove the opportunity from headstrong and ignorant individuals of injuring their morals and their fortune by buying or selling shares in mining or industrial companies for the account.

It now remains to examine the working of these German laws. The regulation as to registration proved a lamentable failure, and in 1908 was repealed. Despite the efforts of the leading banks to require registration by refusing to deal with unregistered persons except in purely cash transactions, not only the general public, but even the smaller brokers and provincial banks, declined to put down their names in what they called the "gambling register." The number of registrations never reached four hundred, of which not so many as forty were "outsiders."

Where the cash transactions did increase, it was found that they were no less speculative than time dealings, and being deprived of the regulative action of the short seller the market became one-sided. Bull movements went higher than formerly; the crash was more disastrous, and fluctuations increased in violence. But the unregistered public did not turn wholly to cash dealing because of the ruling of the big banks. They found plenty of smaller concerns, and later the banks themselves, who were forced by failing trade to revoke their rule, willing to deal for them on the strength of personal honesty alone and to make contracts unenforceable by law. This opened a new field to professional crooks who, when they could induce a broker to trust them, defaulted on their losing

ventures, recovering their margins as well as the loss from the broker. Not alone the small jackal of the market, but well-to-do merchants and sometimes bankers appeared as defendants in these suits. Cases occurred where a man would buy and sell the same stock at once through two different brokers and refuse to settle on the losing contract. Opportunities for speculation were not at all removed. In fact, an added "tang" was given it to the adventurous who enjoyed the excitement of the increased uncertainty, while careful men easily could and did transfer their business to foreign markets, especially to London, Budapest, Paris and Amsterdam. Foreign agencies multiplied in Berlin and tax receipts on stock transfers fell from 20,000,000 marks in 1895-6 to 13,000,000 marks in 1902-3. Telegrams received at the offices of the exchanges fell eighteen per cent from 1893 to 1902, and in other offices increased forty-three per cent, showing the shifting of speculation from the organized exchange to the hands of the individual house, and not a decrease of such transactions.

As for the prohibition of account trading in industrial and mining stocks, it is not necessary to go further than the statements of the German government itself to make an explanation of the reasons for repeal provisions attached to the amendatory bills of 1904, 1906, and 1907. The report of 1907 says, in referring to the above, it "has proved injurious to the public, without accomplishing its original purpose." Whatever evils of speculation there were, it declares, have been increased by forcing a resort to new methods, especially cash dealings, and by the narrowness of the market resulting therefrom. Quoting from Dr. Emery further, in his admirable article, "Ten Years' Regulation of the Stock Exchange in Germany," in the "Yale Review," 1908-09, the results of the law may be summarized as follows:

"Fluctuations in prices have been increased rather than diminished. The corrective influence of the bear side of the market has been restricted, the tendency to an inflated bull movement was increased in times of prosperity. This in turn made the danger of radical collapse all the greater in proportion as the bull movement was abnormal. The greater funds needed to carry stocks on a cash basis further increased the danger when collapse was threatened. The result was an increased incentive to reckless speculation and manipulation." Says the German Government report of 1907:

"The dangers of speculation have increased, the power of the market to resist one-sided movements has weakened, and the possibilities of misusing inside information have enlarged."

The last provision we shall consider is the prohibition of "futures" on the produce department of the Bourse. The first result of the attempt to enforce this, along with the appointment of a board representing the agriculturists to assist in the management of the exchange, was the secession of all the produce brokers from the exchange building, leaving the government appointees no brokers to preside over and the representatives of agriculture no colleagues. The seceding members moved across the street and took up new quarters. Here they carried on their trading for future delivery, but without the acknowledged organization of the exchange, the machinery for clearing, the official announcement of prices, and with their printed contract forms containing the express announcement that the established usages of the grain trade were not there in force. All business was done under the general commercial law governing delivery on contracts. While grain was thus bought and sold for future delivery, and while short selling continued as before, still there was much hesitation and uncertainty.

Then the agrarians, in the newspapers and on the floor of the Reichstag, grew bitter in denouncing the government's unwillingness to enforce the law, claiming that this organization constituted an exchange within the meaning of the act, and that illegal trading was still being carried on. Some months after this the government notified the brokers that it considered their organization an exchange and forced them to leave their new quarters. They next took refuge in a hospital, in the various adjoining rooms of which each broker claimed to have an individual office and to be doing a strictly office business under the commercial law. They had no formal fixed rules as to "contract grade," "option of delivery," etc., published no price-list and had no clearing house. However, a private agency soon arose, offering to clear settlements for those who chose to patronize it, which amounted to a practical re-establishment of the clearing house.

Although speculation in "futures" had not been thus entirely stopped, it had been so hampered and harassed as to begin to show the effect of its cessation upon the grain trade. With the disappearance of the central barometer of conditions, the Berlin price-list,

disorganization began over the whole country. As the central price-list faded away, the local markets increased in importance. But as these were hampered by the same law, were authoritative only for the surrounding country, and varied widely as to rules for dealing, contract grades and prices, they were of little help in aiding the farmer or the miller to determine what a fair price for his grain was. The agrarians themselves began to see that the Berlin Bourse had performed a certain service, and endeavored to procure a substitute for the former central-price reports. It was even advocated that the government establish a board to collect all the local prices and, on the basis of these, fix a price arbitrarily. This was not carried out, but a board was established to collect and publish three sets of prices, local "spot" prices, Berlin, Danzig and Stettin, and a few other large market prices, and prices on foreign exchanges, which latter are exactly of the speculative sort that were abolished in Berlin. The inadequacy of these prices is easily seen. The two former are local prices under local conditions. They are figures of sales that have taken place and not of prices at which future sales may be made. The foreign prices are of little use to the German producer, who does not normally export grain, but have become increasingly important to the miller for hedging operations, for instance, which are now made on the Amsterdam and Hungarian exchanges, and even, it is said, in Chicago.

Under these conditions of uncertainty, caused by the lack of an authoritative central market quotation list, based on prices at which sales are continuously taking place, it is quite probable that the buyers, feeling the need of greater caution, were less liberal than otherwise in making offers to the producers, and the latter less able to inform themselves as to whether they are being fairly treated by the big dealer than when they could refer to the Berlin prices. It is impossible to say yet what has been the influence of the suppression of short selling upon prices. It must be borne in mind that by undergoing a little more expense, dealers can still and do take advantage of the foreign speculative market for their hedging operations. Furthermore, this experiment came during the recent period of rising prices throughout the world, a rise which cannot be attributed to German legislation. It was averred by the Liberals that German prices for lack of the former speculative demand have

lagged far behind prices in foreign markets, to which the agrarians replied that German prices are normally lower than foreign prices, and that the difference is less now than under the old system.

The agrarians, however, were not at all satisfied. On the one hand, they complained that a more reliable determination of prices has not been introduced, and demanded a compulsory declaration to some authorized body of every sale of grain, stating in each case the quality, conditions of transfer, and the price. On the other hand, they asked for the suppression of such speculation as still continued.

Several conferences between representatives of the two parties were held, and finally, in 1900, the produce brokers returned to the exchange, still forced, however, to keep to the cruder devices in order to avoid the law, and in a state of legal uncertainty as regards their contracts. In the law of 1908, repealing the provision against "futures" in the stock market, the agrarians were still influential enough to make the prohibition of grain "futures" still more restrictive, a measure which caused the traders to threaten to close the exchange altogether. They were assured, however, by the authorities that "hedging" operations would be permitted.

Federal Regulation in the United States

Many of the states have laws, which will be discussed later, prohibiting in one form or another what the authors thought to be the evils of speculation, but the ineffectiveness of these laws has led to determined attempts to secure federal legislation on the subject.[3] In 1890 a bill, the first of the "anti-option" bills, was introduced by Mr. Butterworth, of Ohio, but never came to a vote. Its most important features were included in bills introduced in the next congress in 1892 by Messrs. Hatch, of Missouri; Alexander, of North Carolina, and Brosius, of Pennsylvania. These bills were referred to the committee on agriculture, which reported back a new bill, known subsequently as the Hatch bill, on which the discussion in both house and senate centered.

The first section defined "options" as privileges or "puts" and "calls," while the second section defined "futures" as contracts for future delivery where the seller was not at the time in possession of the property contracted to be sold, and had not acquired a right

[3]Emery, "Speculation in the United States."

to the same. Contracts made with federal, state or municipal governments were exempted, also contracts made by farmers or planters to deliver grown or growing crops at a future date. Prohibitory transfer taxes and heavy license fees were laid upon dealings and dealers in the commodities to which the bill referred, and each dealer was required to give bond to the amount of $40,000. The commodities enumerated were raw or unmanufactured cotton, hops, wheat, corn, oats, rye, barley, grass seeds, flaxseed, pork, lard, bacon and other edible products of swine. The bill was designed to kill exchange speculation by repressing short selling.

The bill was fully debated in the house and passed that body by a vote of 167 to 46. In the senate it was also warmly debated and passed with amendments, one including flour in the list of articles mentioned above, 40 to 29, and was then returned to the house for concurrence. On the motion of Mr. Hatch to suspend the rules and take up the bill at once, the vote was 172 to 124, less than the two-thirds necessary. Congress expired before the bill could be reached in its turn.

In the next congress a similar bill was introduced by Mr. Hatch. It went to the committee on agriculture, was referred back with some changes, defining a "future," for instance, as a contract for delivery of the products specified at some future time, and imposing stamp taxes on speculative contracts, which were required to be in writing and in duplicate. The bill passed the house June 22, 1894, by a vote of 150 to 89, not voting 114. It was sent to the senate, referred to the committee on agriculture, reported back, but never came to a vote.

When Mr. Hatch, of Mississippi, and Mr. George, of Missouri, left congress there was a temporary lull in the introduction of "future" and "option" bills. The near-panic of 1903, with accompanying speculative turmoils, aroused. however, a new host of "antis."

In the third session of the fifty-eighth congress a bill was introduced in the house by Mr. Jack Beall, of Texas, to "encourage and promote commerce among the states and with foreign nations, and to remove obstructions thereto." Another was introduced in the senate by Mr. Berry, of Arkansas, "to define 'options' and 'futures,' to make such contracts illegal, and to provide penalties for violation of the law."

The first bill was referred to the committee on interstate and foreign commerce, and the second to the committee on judiciary, but neither was reported back.

In the first session of the fifty-ninth congress Mr. Clay, of Georgia, introduced a bill similarly entitled as Senator Berry's, and Mr. Beall, along with Mr. Smith, also from Texas, introduced each a bill similar to that of Mr. Beall's previous bill. These three bills met a fate similar to that of their predecessors. In the second session, Senator Culberson, also of Texas, introduced a bill "to prohibit interference with commerce among the states and territories and with foreign nations, and to remove obstructions thereto." This bill died in the committee on agriculture and forestry. In the house, Mr. Macon, of Arkansas, introduced a bill "to prohibit interstate buying or selling or otherwise dealing in what are known as futures," and Mr. Burleson, of Texas, again introduced a bill similar to Mr. Berry's mentioned above. Neither of these bills was reported from committee; but Mr. Burleson, on pretense of offering an amendment to an appropriation bill, managed to address the house with a violent attack on the New York Cotton Exchange, and asserted that, despite the failure of the anti-gambling crusade of 1894, that he and a small group of associates were determined to press the matter as long as they remained in congress.

It remained for the sixtieth congress, after the panic of 1907, to break the record in the introduction of bills condemning and prohibiting "futures" and "margins," which latter term some congressman had discovered, and "options." Senator Jeff Davis even wished to prevent anyone from "gaining or losing sums of money called margins from the fluctuations in value of the products of the soil," which recalls to mind the motion offered once by a western congressman to repeal the law of supply and demand. In all there were twenty bills introduced by members from Texas, Arkansas, Oklahoma, Georgia, Alabama, Missouri, Kansas, Mississippi, Iowa and Tennessee. To go into the provisions of each would be unnecessary, as they are much alike; and none of these bills was debated or voted upon.

In the sixty-first congress thirteen bills were introduced by southern or western congressmen. A bill was reported back from the house committee concerning cotton "futures" with amendments striking out several sections, but was not debated and never came

to a vote. In the first session of the sixty-second, the present congress, which began April 4, 1911, eight bills were introduced by Messrs. Burleson, Beall, Rucker, Ferris, Robinson (of Arkansas), Macon and Oldfield, none of which came to a vote. It is probable that the question will continue to come up for some time, until the western and southern states, from which the protests chiefly come, reach a higher level of commercial experience and economic education. Most of the bills mentioned above prohibit "short selling," dealings in "futures," on "margins" and "options" in the grain and cotton markets, though some bills refer exclusively to one and some to the other. They are modeled largely on the plan of bills which have been already introduced or become laws in their respective state legislatures, to which legislation we shall now turn.

Before leaving the field of federal activity, it may be well to call attention to the recent report of the Bureau of Corporations upon the Cotton Exchanges made in pursuance of the following request of the House of Representatives, February 4, 1907: "*Resolved,* That the Secretary of Commerce and Labor, through the Bureau of Corporations, be, and hereby is, requested to investigate the causes of the fluctuations in the price of cotton and the difference in the market price of the various classes of cotton, and said investigation shall be conducted with the particular object of ascertaining whether or not said fluctuations in the prices have resulted in whole or in part from the character of contracts and deliveries thereon made on the cotton exchanges, dealing in futures, or is the result of any combination or conspiracy which interferes or hinders commerce among the several states and territories or with foreign countries."

The report was presented by Mr. Herbert Knox Smith, Commissioner of Corporations in 1908-09, and presents substantially the following conclusions:

1. The future system when properly conducted is of permanent benefit to the cotton industry in general, of particular benefit for the "hedging" operations of cotton merchants and the spinners, and productive of a higher price to the producer or a lower one to the consumer, or both. Its mode of operation is, contrary to the common form of insurance, to concentrate the risks of changes in value upon a special class, the speculators, rather than to distribute them among a large body of policyholders.

2. That, owing to the policy of the New York Cotton Exchange in maintaining a "fixed difference" system of prices based on the price of "middling" rather than a "commercial difference" system, hedging operations are not facilitated, producers sometimes do not thereby obtain the proper market price for their product, and the future system is abused by a small group of cotton dealers for their own narrow purposes.

State Legislation Affecting Speculative Markets

New York.—To begin with the states in which the most important markets are situated, and where the community has had most experience with the workings of organized speculation, New York enacted a law in 1812, declaring all contracts for the sale of stocks or bonds void, unless the seller at the time, was the actual owner or assignee thereof, or authorized by such owner or assignee to sell the same. A similar prohibition was made in England in 1733, but had no effect in stopping speculation, and was repealed in 1860. The New York statute was repealed in 1858, the language used being a complete reversal, providing that no contract should be void because the property sold was not at the time in possession of the seller. As Emery remarks: "this affirmatively legalized short sales."

In 1908, Governor Hughes appointed a committee to report upon the legal side of speculation in securities and commodities with a view to possible changes in the state laws relating to such. The committee reported the following year, pointing out several evils of organized speculation, and recommending some additions to the law of the state covering the subject. In the main, however, the committee felt that the evils could best be dealt with by the Governing Board of the Exchange itself, and took occasion to warn the Stock Exchange that if it did not assist in correcting the abuses that had sprung up, it would have only itself to blame if state regulation ensued. The committee defended "futures" and "short selling" as entirely legitimate and necessary accompaniments of modern, scientific business. It made little complaint of the New York Produce or Cotton Exchange, except to advise the discontinuance of dealing in mining stocks on the former and a more rigid suppression of inordinate speculation on the latter. As a result of the report, some important changes were made by the Stock Exchange

in its constitution. The other exchanges indulged in some discussion, but no law was enacted by the legislature.

In Pennsylvania, in 1841, an act was passed making short selling a misdemeanor, with a fine of from $100 to $1,000. Money paid was recoverable. This law was repealed 1862.

In Illinois, the following statute was passed at an early date:

"Whoever contracts to have or give himself or another the option to sell or buy at a future time any grain or other commodity, stock of any railroad or other company, or gold, or forestalls the market by spreading false rumors to influence the price of commodities therein, or corners the market, or attempts to do so in relation to any of such commodities, shall be fined not less than $10 nor more than $1,000, or confined in the county jail not exceeding one year, or both; and all contracts made in violation of this section shall be considered gambling contracts and shall be void."

In the ensuing court decisions "option" has sometimes been held to mean what it properly should, "puts" or "calls," but in other cases has been applied by the courts to the regular future contract where there was an agreement to settle by differences. The interpretation was that the party had an option of delivering, or settling by differences. The ordinary option or "privilege" is where the party may deliver or not as he elects. At any rate, it is said that the law has very little effect, options still being traded in to a large extent in Chicago, while corners and false rumors are not unknown.

In Massachusetts also, an act was passed in 1836 forbidding short sales of stock or bonds, but has not stopped speculation in that state.

With the exception of these few states where speculation developed comparatively early, there seems never to have been any widespread agitation against speculation until the early eighties following the "boom" period that came with the resumption of specie payments. In 1882, Ohio passed an act similar to that of Illinois, explained above. In 1885 a still severer act was passed condemning futures, but was repealed in 1889.

The constitution of California, adopted in 1879, contained a provision that "all contracts for sale of shares of capital stock of any corporation or association on margin, or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered." This section of the constitution was amended in 1908.

In Georgia, an act directed against future contracts was held by the courts to make ordinary exchange contracts illegal. Mississippi has a law, passed in 1882, which requires the mutual agreement of parties not to deliver to make the contract void. Tennessee, in 1883, Arkansas in 1883, Texas in 1885, South Carolina in 1883, Michigan in 1887, Iowa in 1886 and Missouri in 1889, passed laws the substance of which is that "futures" and "options" are illegal where there is no intent to actually receive or deliver the article sold.

In 1890, the Massachusetts legislature passed the following act: "Whoever contracts to buy or sell upon margins, without intent to actually receive or deliver, may sue for any payment made." The same year, a law in North Dakota restrained public officers from speculating while in office.

Through the nineties there was a temporary pause in legislative assaults upon speculation, the panic of 1893 apparently not being attributed to the direct efforts of speculators. In 1898, another period of legislative and executive activity began, with the movement against the trusts and monopolies as its main objective and the opposition to organized speculation a minor issue. This movement culminated in 1907-'09 as is indicated by the bills introduced in Congress, as well as the laws passed in the states, although agitation is still continuing, and with the change in the political complexion of the administration, there is a likelihood of a still greater amount of radical legislation.

In 1898, Louisiana adopted a new constitution providing that the legislature should pass laws to suppress dealings in options or futures on agricultural products or articles of necessity. Combinations to force the price of such products up or down for speculative purposes were declared unlawful. In conformity with this provision, the legislature, the same year, passed an act, prohibiting dealing in futures on agricultural products or articles of necessity, when the intention is not to make a *bona fide* delivery.

In 1901, Massachusetts amended the law of 1890, prohibiting wagering contracts in stocks or commodities where no purchase is intended. Lack of seller's ownership is evidence of a wagering contract.

In 1905, indications appeared of a discrimination on the part of legislatures between gambling and speculating. Minnesota passed an act prohibiting "bucket shops" and bucketshopping. North Caro-

lina made it a misdemeanor, on the other hand, to deal in "futures," pardon being given to the one turning state's evidence. North Dakota prohibited operations in bucket shops. In 1906, Georgia passed an act enforcing a penalty for dealing in futures. State's witnesses are given immunity. *Bona fide* trade not prohibited. In 1907, Alabama prohibited dealings in futures, making such contracts void and compelling witnesses to testify under immunity. Arkansas prohibited bucket shops, and dealing in futures, or on margins, witnesses testify under immunity. Florida made it unlawful to deal in cotton futures; Montana prohibited gambling and dealing in futures; Nebraska suppressed bucketshopping and gambling in stocks; and Vermont passed an act to restrain stock gambling.

In 1908, California by constitutional amendment made contracts relative to stock speculation void. The Louisiana legislature memorialized Congress to correct abuses of trading in cotton futures; and Mississippi prohibited bucket shops and made contracts for the sale of certain commodities, stocks and bonds, where actual delivery is not intended, void. Four states,—New York, Oklahoma, Rhode Island and Virginia—also defined and prohibited bucketshops.

In 1909, Kansas, New Hampshire, Arizona, Iowa and Tennessee passed laws substantially like the one here taken from the statutes of Kansas. According to this law, maintaining, or aiding in maintaining a bucket shop, is a felony. A bucket shop is defined as a place where the business is conducted of—(1) making or offering to make contracts for the purchase or sale of stocks or commodities, where both parties, or said proprietor, intend that settlement shall be based upon prices prevailing upon some exchange, without any *bona fide* transactions upon such exchange, or (2) where such contracts may be closed or terminated when the market quotations of articles dealt in shall reach a certain figure, or (3) when settlement is made by difference and no delivery or receipt is intended. Telegraph and telephone companies and their employees who permit the transmission or making of any such sales over their lines are guilty of felony, as are also persons knowingly allowing use of their buildings for such purpose. The mere offering to make such purchases or sales shall constitute a felony. The law also declares it the duty of every broker or commission merchant to furnish a written statement to the principal or customer of the name of the other parties to the con-

tract, the time of sale or purchase, the place of sale or purchase, and the price at which the transaction took place.

This act and the one of Iowa are intended to amend and take the place of repealed parts of earlier laws. Arizona prohibits "hedging" contracts, but provides that nothing in this act is to be construed to prevent *bona fide* dealings on boards of trade, or exchange. Wisconsin placed an unusual act on its books in the same year (approved June 10, 1909,) whereby sentence is provided of not more than ten years or less than one year in the state prison for any officer or employee of any bank, banking company or trust company, any executor, administrator, guardian, trustee, or receiver, or any other person holding property or money in any manner in a trust capacity, "who shall buy, sell, deal or traffic in any goods, stocks, grains, etc., by making or requiring any deposit, payment, or pledge of any margin or money to cover future fluctuations in the price of such articles." The same legislature also passed a joint resolution to the effect that "Whereas, the recent wheat deal has again demonstrated to the American people that even the bread supply of our land is at the mercy of speculators; and, Whereas, the recent panic has demonstrated that it is unwise and unsafe for our country to allow the control of our great commercial and industrial conditions to exist in the hands of stock gamblers without check of any kind, and, Whereas, it is of interest to all citizens to know the means by which the huge combine of money in Wall Street can be manipulated," etc.: "Be it resolved that the delegation in Congress be instructed to work for a thorough investigation of the Stock Exchange."

In 1910, various acts of a similar nature to those above were passed in Wyoming, Kentucky, South Carolina, New Jersey, Virginia, Louisiana, Rhode Island and Mississippi. Ohio penalized the making of false financial statements inuring to the benefit of the maker.

By the foregoing account, it is seen that this legislation is not confined to any part of the United States, but has been tried, or is being experimented with in almost every state of the Union. The history of such legislation, as well as its interpretation by the court of the various states, shows that the older commercial states have passed anti-option, future, or short-selling laws, discovered their ineffectiveness and undesirability, and repealed them, for the

most part, before the Civil War. The agricultural and newer states, particularly in the South and West, have passed the most stringent acts, with special attention paid to short-selling. Another point that may be noted is the absence of distinction between the bucket shops which are confessedly but gambling devices, and Exchanges or legitimate Boards of Trade. In part, this confusion has been caused by the practice of proprietors designating their gambling resorts as boards of trade, exchanges, etc., and equipping them with all the outward forms of the regular business. There seems, however, to be a trend of opinion toward the recognition of the important functions of the organized exchange, and at the same time, of the necessity of stamping out the bucket shop which mimics the operations of the former and uses its business standing as a cloak to protect its existence. The state of West Virginia is an exception, actually having a law licensing and permitting the operation of bucket shops.

The court decisions upon cases arising under these statutes are numerous and varied, depending upon the law and the state in which they were rendered. Some of the decisions in the same state are conflicting, especially in Pennsylvania, where there seems to be the greatest chaos and where the decisions are out of line with both the law of England and of this country.

It seems to be well settled, however, in the common law of England and the United States, and under the decisions of the New York and the highest Federal courts, that the sale of property to be delivered at some future time is entirely legal, even though the said property is not at the time of sale in the possession of the seller. It seems to be equally well established, in case the two parties to such a contract of sale intended at the time of sale not to make or receive an actual delivery, but to settle their bargain by payment of differences on the future price of the article in question, that the transaction is a gambling one and is void. As one judge has remarked, "the principle of the law is clear; the trouble arises when its application is attempted to a concrete case. Further, almost all discrepancy seems to arise through lack of a complete determination of the facts, or the unwillingness or inability of the judge to understand their real nature."

This latter feature has given rise to many contradictory decisions, and it may be well in view of the importance of this point to draw here some distinctions between gambling and speculation.

Both H. C. Emery and the Hughes Committee define speculation from the individual point of view as dealing in property with the intent to make a profit from its fluctuations in value, but the Hughes Committee goes on to say—in reference to speculation: "it may be wholly legitimate, pure gambling or something partaking of the qualities of both," and after citing a legal definition of the two on page 4 of the report in pamphlet form, "the rules of all exchanges forbid gambling as defined by this opinion; but they make so easy a technical delivery of the property contracted for, that the practical effect of much speculation, in point of form legitimate, is not greatly different from that of gambling." It is clear from these quotations that the Commission had in mind merely the moral and pecuniary effects of speculation and gambling upon the particular individual concerned, for no one could scarcely maintain that the effect upon prices of buying and selling, no matter how rapidly, or upon how slight a margin the dealing should be carried on, would be the same as when there were no purchases or sales, the settlement being made merely on the basis of prices established by other's transactions. The definition framed by the committee would make the decision turn upon the character of the individuals engaged in buying and selling. If they failed, they were gambling, if they succeeded, they could be termed legitimate speculators. It is estimated that over nine-tenths of all who engage in business, fail to succeed. We may as well say that they are gamblers if we call the unsuccessful in speculation such. Of course, all events in life, all persons are subject to the universal uncertainty of our situation, but it is going a long way to apply the term gambling to the struggle for existence, unless we seek to justify the term.

As generally used, however, I believe "gambling" can be defined as the assumption of an unnecessary risk, when the risk applies only to wealth. By unnecessary, I mean unnecessary to the welfare of the community. It is the speculator who assumes the risk of changes in value which occur so rapidly and unexpectedly in certain securities and commodities. I cannot see what the condition of the individual's mind, his knowledge of what he is doing, or his intentions, have to do with the nature of his activity in this case. Whether he believes he is unjustifiably gambling, or legitimately speculating, what he actually does is to contract to buy and sell property, and whether his contracts are "rung out," or go through

the clearing house, what he has actually done is to receive or deliver or both receive and deliver, as the case may be, the property which he previously contracted to buy or sell. The fact that large numbers of ignorant and hopeful persons, trusting in their lucky star, persist in buying and selling grain and cotton on inadequate margins does not alter the essential nature of such transactions, although, of course, it may affect greatly the course of prices, and the welfare of those misguided individuals.

To meet the evil of speculation what is required is the elimination from the field of speculation of those who are unfitted by nature, financial circumstances, or training to engage in it. We select certain persons for the law, the practice of medicine and the ministry by means of certain rigid requirements, because we think those arts of too great moment to permit untrained men to engage in them. But there is no law prohibiting certain persons from buying and selling property; to make such a one would strike at the roots of personal liberty. The right to buy or sell, or to contract to buy or sell property is a fundamental one, and even when a small sum is paid to seal the bargain, and when the proportion of the capital of the individual to the value of the amount dealt in, is small,—even under these conditions, it is difficult to see how any law which did not seriously abridge the right of contract, could save people from themselves.

The two ways in which the "lambs" commonly lose their "fleece" is in buying unsound securities, and trading on a capital too small for the business done. The first method does not apply of course to commodity exchanges, but the second is peculiarly dangerous there. If brokers and bankers would discriminate between persons and require a margin ranging from twenty per cent to forty per cent, they could undoubtedly do very much toward reducing both speculation and losses on the part of those who rely for success more upon their "brains" than their wealth.

"Options" have been made the subject of more successful legislative onslaughts than "futures," most states having laws, and many exchanges rules, forbidding them. This is due to the ease with which they lend themselves to the attempts of the inexperienced to speculate, only a small capital being needed to indulge in their purchase. They serve, however, a legitimate business purpose, are entirely legal under common law, outside of the exchange, and under

the regulations of England, and the state of New York. "Puts" and "calls" in the market correspond exactly to options given on any piece of property to buy or sell at a certain price, a small sum being charged for the "privilege." Despite the prohibitory statute of Illinois, they are actively dealt in, in connection with the Chicago Board of Trade transactions.

"Corners" are sometimes based on a true estimate of the future price, sometimes on a mistaken one. In the former case, as in the recent Patten wheat deal, the price after the corner matures does not fall abruptly from the settlement price, and the operator reaps the reward of his superior foresight in determining wheat values. In the latter case, great fluctuations prevail, the "corner" is almost invariably broken, and the price falls lower than before the attempt to raise prices began, with the consequent ruin of the speculator. Laws can scarcely prevent any person from buying up any commodity of everyday trade and holding it for a higher price, but in so far as the exchange establishes an artificial supply and demand for a single month, it can also exert a certain authority in compelling a reasonable settlement price for the "shorts," and in preventing the matching of orders or "wash sales" for the purpose of creating temporary, and unusable, fictitious quotations.

One regulation by law cannot be advocated with too much zeal by all good citizens. That is the rigid suppression of all false and misleading rumors whether circulated designedly by those pecuniarily interested, or carelessly by the newspapers and other publications which delight in sensational tales. California and Ohio are the two states which have recently enacted a law to this effect. The statute of California reads as follows:

"Every person who wilfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price of any kind of property is guilty of a misdemeanor." This is the first step in the development of accurate knowledge of stock and commodity values on the part of the public.

Another movement, the converse of the above, which well deserves support is the demand for a more accurate, prompt and more frequent gathering and publishing of statistical information upon the state of growing crops, for it is upon such information that the forecasts of future prices are based. The government crop

report coming now once per month could well be made, in view of the amounts at stake, twice per month, or as often as the conditions of trade demanded.

As has been indicated elsewhere in this paper, it is the writer's belief that genuine and enduring reform in the practice of speculation upon organized exchanges can only come with the gradual growth of an enlightened commercial public, and the adoption of higher standards of social ethics by those who conduct the industrial enterprises of the land. The waning of the get-rich-quick-at-any-cost spirit and its replacement by the professional feeling of the physician, the teacher and the clergyman, evidences the growing recognition on the part of business men, whether banker, director or manager, of a fiduciary relation to the community which circumstances in the past have sometimes led the public to believe they had not discovered in them. The evils of the exchange are merely the evils common to all American business as it has been carried on, with the chief end in view, the making of an unlimited fortune in the least possible time. With the appearance of a new "spirit of the times," we may with confidence expect a decline of the "sharp practices" that have characterized business in the last decades.